

MYTHS REGARDING FEDERAL ELECTRIC TRANSMISSION SITING

Congress established a new federal transmission siting process in the Energy Policy Act of 2005. There is a great deal of misunderstanding about how the process will work. This paper addresses the areas of greatest misunderstanding about the new federal electric transmission siting process.

Myth #1 – Eminent domain will be widely used to acquire rights of way

FERC has a long history with the siting of natural gas facilities under section 7 of the Natural Gas Act. This authority involves the right of eminent domain being conveyed to the project sponsor with FERC approval of its project. While eminent domain authority exists; its exercise has been limited. It is expected that the exercise of eminent domain authority with respect to siting of electric transmission facilities will also be limited (eminent domain will not apply to federal and state-owned lands). Some recent examples of the use (or non-use) of eminent domain authority in pipeline siting include:

Rex West (CP06-354) – under construction

(approximately 700 miles of 42 inch pipeline in Wyoming, Nebraska, Kansas and Missouri)

- Rex West reported that only 18 eminent domain actions were taken out of 1746 parcels required – only ~1 percent.

Gulf South's Southeast Expansion Project (CP07-32) – under construction

(110 miles of 36-inch pipeline in Alabama and Mississippi)

- Gulf South states that for 110 miles of pipeline and for 336 affected landowners, there were no contested eminent domain proceedings.

Gulf South's East Texas to Mississippi Expansion Project (CP06-446) – under construction

(250 miles of 42/36-inch pipe in Texas, Louisiana and Mississippi)

- Gulf South states that for 250 miles of pipeline and for 532 affected landowners, there were seven contested eminent domain proceedings.

Myth #2 – There will be no community meetings

The electric transmission siting process, during both the pre-filing period and after an application is filed, is filled with opportunities for public participation. These opportunities will arise as FERC fulfills its obligations under the National Environmental Policy Act. Recent history in natural gas facility siting (pipelines, storage and LNG) shows that FERC listens to the public at community meetings. For example, the FERC staff attends numerous meetings with the public such as applicant open houses where we explain our regulatory process; holds scoping meetings at locations along a route and site visits to meet with and hear the concerns of landowners; and, after a draft EIS, the staff holds comment meetings to hear comments and to visit areas along the route for additional involvement by landowners. In fact, since FY2005, staff has held or attended over 275 community meetings on gas pipeline and LNG cases. In one such LNG case in Oregon, the staff attended 33 public meetings, and in a pipeline case near Phoenix, AZ the staff attended 25 public meetings.

Myth #3 – Landowners will be denied a role and not be protected

The rules and regulations adopted in the final rule on electric transmission siting require the project sponsor to create a Project Participation Plan to inform affected stakeholders, including landowners, how to facilitate their participation in the proceeding of their rights.

The regulations for the authorization to construct natural gas facilities under section 7 of the Natural Gas Act contain comprehensive guidelines for the applicant's responsibility for the notification of landowners (18 CFR § 157.6(d)). In addition, there are standard regulations for intervening and participating in natural gas projects. Of course, not all stakeholders have access or know where to go to get access to these regulations. In order to more fully serve the public, FERC has created, on its website, an area labeled "For Citizens". The drop-down menu for this selection contains four choices:

- Projects Near You This option allows the user to select a region of the country and access information on projects in that region.
- About FERC This option gives an overview of what FERC regulates.
- Getting Involved This option allows the user to access information on how to: use eLibrary, make electronic filings with FERC, attend meetings and conferences, and become an intervenor. There are links to related topics: **Should I Get Involved?**; **How To Get Involved**; and **The Process**.
- Citizen's Guides This option permits the user to access plainly-worded guides to: gas facilities, LNG, electric transmission siting, hydropower

licensing, Ideas for Better Stakeholder Involvement In the Interstate Natural Gas Pipeline Planning Pre-Filing Process, oil regulation, and the FERC Dispute Resolution Service.

These Citizen's Guides are also published and made available by mail and at public meetings.

In addition, when FERC issues new infrastructure initiatives, staff typically (when the budget permits) will give presentations around the country that are open to all stakeholders. This allows FERC to not only present the new initiative, but to also invite discussion and convey a deeper understanding of the initiative.

SE Supply Header Project – Mississippi – CP07-44

- The proposed route of a pipeline would have crossed the property of an elderly couple. The landowners participated in the FERC proceeding, protesting the proposed route, which would have crossed through their yard. The husband had hand-built their “dream home” with timber he cut himself on the property. The husband had a serious illness, and he attended the FERC community meeting with IV ports in his arms from a recent hospitalization. Intercession by FERC staff and an environmental condition in the order encouraged the pipeline to settle on a route off the property, avoiding treasured wet meadows and stands of mature trees.

Carthage to Perryville Project – Texas and Louisiana – CP06-85

- The proposed route of the pipeline would have cut through the center of a dairy farm operation, 100 feet from labor housing and about 300 feet from the dairy barn. The concerns included the impact construction noise would have on employee sleep and cows in the milking barn. The noise of heavy machinery could scare the cows, affecting lactation, gestation, and reproductive cycles. It also would be very difficult to get the cows to cross the right of way during and after construction. FERC's order included a condition for a route change that shifted the pipeline route toward the northern end of the property resulting in happy cows and laborers.

Myth #4 – FERC will not make changes to proposed routes

There is no constraint upon FERC when it comes to making alterations to the proposed routes of electric transmission facilities. In fact, the examination and adoption of alternative routes and alterations in the proposed route of a project is at the very heart of the National Environmental Policy Act.

As the following examples show, FERC routinely alters the proposed routes of pipeline projects. One can be assured that the proposed route in an application will not be the route finally approved by FERC.

Spectra Energy's Southeast Supply Header Project (CP07-44) under construction
(269 miles of 36 and 42-inch pipeline in Louisiana, Mississippi and Alabama)

- During the pre-filing process 82 route variations were adopted to address landowner requests. Twelve others were adopted before the issuance of the final EIS. Finally, the FERC order required 4 additional variations. A total of 98 route variations resulted from the FERC process.

Gulf South's Southeast Expansion Project (CP07-32) under construction
(110 miles of 36-inch pipeline in Alabama and Mississippi)

- Gulf South incorporated 40 route variations during the FERC process to accommodate various landowners and to avoid homes, retain viewsheds, avoid ponds, follow property boundaries, etc.

Gulf South's East Texas to Mississippi Expansion Project (CP06-446) under construction
(250 miles of 36 and 42-inch pipeline in Texas, Louisiana and Mississippi)

- During the FERC process, Gulf South incorporated approximately 40 route variations proposed by various landowners.

Myth #5 – FERC will not consider the State record

An application for electric transmission facilities will come to FERC for approval more than likely after it has been considered at the state level. For this very reason, FERC will take a hard look at the state record to first determine whether a project qualifies to be considered. If so, during the pre-filing phase, FERC will welcome the participation of state agencies in the stakeholder process in order to reach a consensus, if possible, on the project. Further, as FERC prepares its environmental study, it will utilize the state record to assist it in its analysis.

In natural gas pipeline siting, we welcome the participation of state agencies in our proceedings, and state agencies sometimes become cooperating parties. In addition, in our processing of LNG facility applications, FERC consults with a designated state agency regarding state and local safety considerations.